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FILED

March 18, 2003

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE **OF** NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL **EXAMINERS**
DOCKET NO.

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF : Administrative Action

Kamal Patel, M.D.
License No. **MA 040632**

CONSENT ORDER

TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") by the receipt of information from the Burlington County Police Department. According to that information, an inspection by the Alcoholic Beverage Control Commission at Rocky's Inn in Florence, New Jersey disclosed the presence of prescription medications **located** behind the bar. Respondent is linked to those medications by virtue of **being identified** as the prescribing physician and prescription bottles.

Evidence seized during the Alcoholic Beverage Control

CERTIFIED TRUE COPY

inspection conducted on April 18, 2001 included "unit of use" packaged containers of over-the-counter and prescription legend drugs; three prescription vials, with medication, for three different patients all authorized by the Respondent; 1 specimen bottle in a plastic bag marked "E.R." containing a liquid identified as "Phenergan Plain."

Respondent appeared with counsel before a Preliminary Evaluation Committee ("Committee") of the New Jersey State Board of Medical Examiners on August 28, 2002. She testified under oath that she occasionally provides medical treatment, prescriptions and sample drugs to her adult son and his children. She admitted that she had poured Phenergan from a container in the hospital into a sterile urine bottle and that she provided this medication to her son. Respondent also admitted that she had upon occasion provided medication to her son with no written directions or prescription labels. Respondent stated that her son must have left medication she had given him in the bar area of Rocky's, where he is manager. Respondent admitted that she rarely conducts physical exams of her son and grandchildren and that she maintains no medical records or record of prescriptions for them.

Dr. Patel could not explain why medication vials for three E.R. nurses, bearing her authorization, were found at Rocky's Inn. Respondent admits that, after an appropriate physical examination, she may have treated or prescribed medication for these and other

nurses in the E.R., but that she kept no **medical** records or log of **prescriptions** for **these** individuals.

Respondent being desirous of resolving this matter, and the **Board** finding the within Order to be adequately protective of the public interest;

IT IS THEREFORE on this 25 day of February, 2003,

ORDERED that:

1. Respondent Kamal Patel, M.D., be and **hereby** is reprimanded for dispensing medications absent proper labeling in violation of N.J.A.C. 13:35-7.5 and failing to **keep** proper medical records in violation of N.J.A.C. 13:35-6.5(b)(1) which conduct constitutes violations of and N.J.S.A. 45:1-21(e)&(h).

2. Respondent shall enroll in and successfully complete a Board approved course in prescribing of controlled **dangerous** substances to include a record keeping component and a Board approved course in ethics, at her own expense, within one **year** of the entry of this Order. Successful completion means that all sessions were attended, all assignments were properly and appropriately completed, and a passing grade was achieved which was unconditional and without reservations. Respondent shall submit to the Board verification of the successful completion of said courses within twelve (12) months hereof;

3. Respondent shall pay a civil penalty in the amount of \$2500.00 upon entry of the within Order.

4. Respondent shall pay costs in the amount of \$5594.37 upon entry of the within Order.

5. Payments made pursuant to the within Order shall be made by certified check or money order payable to the Board of Medical Examiners and sent to the attention of the Executive Director of the Board, Post Office Box 183, Trenton, New Jersey, 08625-0183.

6. Respondent hereby acknowledges receipt of the attached "Directives Applicable To Any Medical Board Licensee Who Is Disciplined Or Whose Surrender Of Licensure Has Been Accepted."

STATE BOARD OF MEDICAL EXAMINERS

By: William V. Harrer, M.D., B.L.D.
William V. Harrer, M.D., B.L.D.
President

I have read and understood the within Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.

Kamal Patel
Kamal Patel, M.D.

I hereby acknowledge that I have read and consent to the form of the Order above.

Stephen Raymond
Stephen Raymond, Esq.

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees **who** are the subject of a disciplinary order of the Board are required to provide the information required **on** the addendum to these directives. The information provided will **be** maintained separately and will not be part of the **public** document filed with the Board. Failure to provide the information required may result in further disciplinary action **for** failing to cooperate with the Board, **as** required by N.J.A.C. 13:45C-1 et seq: Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees **who** are the subject of **an order** which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee **shall** promptly forward to **the** Board office at Post Office Box 183, 140 **East** Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, **if** applicable, the original CDS registration. In addition, **if** the **licensee** holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, **at** the conclusion of the term, the licensee may contact the Board office for **the return** of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration,)

2. Practice Cessation

The licensee shall cease and **desist** from engaging in the practice of medicine in this State. This prohibition not only **bars** a licensee from rendering professional services, but **also** from providing an opinion as to professional practice or **its** application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively **advise** patients or others of the revocation, suspension or surrender, the licensee **must** truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is **also** prohibited from occupying, sharing or using office space in which another licensee provides health care **services**. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market **value** office premises and/or equipment. In no **case** may the disciplined licensee authorize, allow or condone the use of his/her **provider** number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for **less** than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license **has been** revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements **by** which his/her eligibility to practice is represented. The licensee must **also** take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name **is** utilized in a group practice title, it **shall** be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If **no** other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been **suspended** for **less** than one year, prescription **pads** and medications need not be destroyed **but** must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in **any** fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee **may** be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, **surrendered** or suspended for a term of one (1) year or more shall be deemed to **be** disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who **is** a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest **has** been terminated. If the licensee **is** the sole shareholder *in* a professional service corporation, the corporation must be dissolved within 90 **days** of the licensee's disqualification.

4. Medical Records

If, **as** a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, **advising** where records may be obtained. The message should inform patients of the **names** and telephone numbers of the licensee (or his/her attorney) **assuming custody** of the records. The **same** information shall also be disseminated by means of a notice to be published at least once **per** month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice **was** conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who **will** have access to medical records of former patients. Any change in that individual or his/her telephone number **shall** be promptly reported to **the** Board. When a patient or his/her representative requests a copy of his/her medical record or **asks** that record be forwarded to another health care provider, the

licensee **shall** promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With **respect** to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon **compliance** with a probation or monitoring requirement, the licensee **shall fully** cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's **status** and practice. Such monitoring **shall be** at the **expense** of the disciplined practitioner.

(a) Monitoring of practice conditions may include, **but** is not limited to, inspection of the professional premises and equipment, and Inspection and **copying** of patient **records** (confidentiality of patient identity shall be protected **by** the Board) **to** verify compliance with the **Board** Order and accepted **standards** of practice.

(b) Monitoring of **status** conditions for an impaired practitioner may include, **but** is not limited to, practitioner cooperation in providing releases permitting unrestricted **access** to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other **individual/facility** involved in the education, treatment, monitoring or oversight of the practitioner, **or** maintained **by** a rehabilitation program for impaired practitioners. If bodily substance monitoring has **been** ordered, the practitioner shall fully cooperate **by** responding to a demand for breath, blood, urine **or** other sample in a timely manner and providing the designated sample.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey **State** Board of Medical **Examiners** are available for **public** inspection. Should any inquiry **be** made concerning **the** status of **a** licensee, the inquirer will **be** informed of the existence of the order and **a copy will be** provided if requested. **All evidentiary** hearings, proceedings on motions **or** other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are **available** for public inspection, upon **request**.

Pursuant to **45** CFR Subtitle **A** 60.8, **the** Board is obligated to report to the National Practitioners Data Bank any action relating to **a** physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which **revokes** or suspends (or **otherwise** restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which **a** license is surrendered.

Pursuant to **45** CFR Section 61.7, the Board **is** obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, **any** formal or official actions, such **as** revocation **or** suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other **loss** of license or the right to apply for, **or** renew, **a** license of the provider, supplier, or practitioner, whether by operation of **law**, voluntary surrender, non-renewability, **or otherwise**, or **any** other negative action or finding **by** such Federal **or** State agency that **is** publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board **refuses** to **issue**, suspends, revokes or **otherwise places** conditions on **a** license or permit, it **is** obligated to notify **each licensed** health care facility and health maintenance organization with which a licensee is affiliated **and** every other board licensee in **this** state with whom he or **she** is directly associated in private medical practice.

In accordance **with** an agreement with the Federation of State Medical Boards of **the** United States, a list of all disciplinary orders are **provided** to that organization on a monthly **basis**.

Within the month following entry of **an** order, a summary of the order will appear on **the public** agenda for the next monthly Board meeting **and is forwarded** to those members of the public requesting a **copy**. In addition, the **same** summary will appear in the minutes of that Board meeting, which are **also** made available to those requesting a copy.

Within the month following entry of an order, a summary of the order **will** appear in a **Monthly Disciplinary Action Listing** which **is made** available to those members of **the** public requesting **a** copy.

On **a** periodic **basis** the Board disseminates to its licensees **a** newsletter which **includes** a brief description of all of the orders entered by the Board.

From **time** to time, **the Press Office** of the Division of Consumer Affairs **may** issue releases including the summaries of the content of public orders.

Nothing herein is intended **in any way** to limit the Board, the Division or the Attorney General from disclosing any public document.